

NUMBER: 38.824

TITLE: AN UNCODIFIED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING THE ZONING MAP FOR CHAPTER 10, TITLE XI OF THE MILPITAS MUNICIPAL CODE (RZ15-0005) TO CHANGE THE ZONING DESIGNATION OF A PORTION OF ASSESSOR'S PARCEL NUMBERS 086-33-086 AND 086-33-087 FROM MXD2-TOD (MIXED USE-HIGH DENSITY WITH RETAIL/TRANSIT ORIENTED DEVELOPMENT OVERLAY) TO R3-TOD (MULTIPLE FAMILY – HIGH DENSITY/TRANSIT ORIENTED DEVELOPMENT OVERLAY) AND IMPLEMENT A CORRESPONDING AMENDMENT TO THE TRANSIT AREA SPECIFIC PLAN ZONING DISTRICT MAP (FIG 5-21)

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of November 17, 2015, upon motion by Councilmember Giordano and was adopted (second reading) by the City Council at its meeting of _____, upon motion by _____. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney

RECITALS AND FINDINGS:

WHEREAS, on June 16, 2015, Lyon Communities submitted an application to the City for the following entitlements:

(1) General Plan Amendment and Transit Area Specific Plan (“TASP”) Amendment to change the land use designation from Residential-Retail High Density Mixed (RRMU) to High Density Transit Oriented Residential (HDTOR) for a portion of Centre Pointe B;

(2) a Zoning Map Amendment to change the City’s Zoning Map from MXD2 to R3 for a portion of Centre Pointe B and a corresponding TASP Zoning District Map (Fig 5-21) amendment to change the zoning district designation on the same 3-acre portion of the Centre Pointe B subarea site from MXD2-TOD (Mixed Use-High Density with Retail/Transit Oriented Development Overlay) to R3-TOD (Multiple Family – High Density/Transit Oriented Development Overlay);

(3) an amendment to the previously approved District One, Lots 2, 3 and 4 Site Development Permit SD11-0001 and Conditional Use Permit UP11-0037 to eliminate Lot 3 from the District 1 project and replace the two mixed use buildings on Lots 2 and 4 (totaling 392 dwelling units and 6,000 square feet of commercial retail) with two five-story mixed-use buildings consisting of 391 residential units and 17,421 square feet of ground floor retail and office space on Lot 2; and

(4) A Site Development Permit, Major Vesting Tentative Maps, and a Conditional Use Permit to allow for the development of a 175 room hotel, a 423 dwelling unit building with 56,982 square feet of retail space and 352 for sale residential units with associated site improvements on 26.65 acres on Centre Pointe Drive and Houret Court parcels (APNs: 086-33-093, 086-33-101, 086-33-086, 086-33-087, 086-33-088, 086-33-089, 086-41-034, 086-41-033, 086-41-032, 086-41-009) located within the TASP area, and, more particularly, within the McCandless/Centre Pointe and Montague Corridor sub-districts of the TASP area (collectively, the “Centre Pointe and Houret Court Project” or “the Project”); and

WHEREAS, as noted above, the Project applicant has initiated a rezoning request (RZ15-0005) to change the land use designation of an approximately three-acre area within the Centre Pointe B subarea (Assessor’s Parcel Numbers 086-33-086 and 086-33-087) from MXD2-TOD (Mixed Use-High Density with Retail/Transit Oriented Development Overlay) to R3-TOD (Multiple Family – High Density/Transit Oriented Development Overlay), which requires a Zoning Code amendment; and

WHEREAS, this rezoning request is accompanied by a proposal to amend the General Plan land use map (GP15-002) and to amend the TASP (ST15-0001) to re-designate this property to Multiple Family – High Density/Transit Oriented Development Overlay; and

WHEREAS, on October 28, 2015, the Planning Commission held a duly-noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties, and recommended approval of a prepared Addendum to the previously certified TASP Environmental Impact Report (“TASP EIR”) for the Project in accordance with the California Environmental Quality Act, and the requested amendments; and

WHEREAS, on November 17, 2015, the City Council held a duly-noticed public hearing and adopted a Resolution Adopting the Addendum to the TASP EIR prepared for the Project, and adopted a Resolution adopting General Plan Amendment GP15-0002 and Specific Plan Amendment ST15-0001 changing the respective land use designations from Residential-Retail High Density Mixed (RRMU) to High Density Transit Oriented Residential (HDTOR) for a portion of Centre Pointe B; and

WHEREAS, the City Council finds the proposed Zoning Map amendment is consistent with the General Plan. In particular, the General Plan land use designation for the site will be High Density Transit Oriented Residential upon adoption of the proposed General Plan Amendment. This land use designation is intended for medium density residential neighborhoods further from BART, at the interior of subdistrict neighborhoods. A minimum average gross density of 21 units per acre is required, up to a maximum of 40 units per acre (General Plan Land Use Element at 2-12; TASP at 3-11). The R3-TOD zoning development standards are consistent with the General Plan setting forth a residential density of 21-40 du/gross acre (TASP Table 5-1); and

WHEREAS, the City Council finds that the proposed Zoning Map amendment will not adversely affect the public health, safety and welfare in that the proposed Zoning Map amendment is consistent with the proposed General Plan land use designation. The proposed Zoning Map amendment will allow for development consistent with the adjacent

existing and proposed residential uses. The density and intensity of development allowed under the proposed Zoning Map amendment is within the range of impacts considered in the TASP EIR, and development pursuant to the proposed Zoning amendment will not adversely affect public health, safety and welfare.

WHEREAS, the City Council finds that with the inclusion of this Zoning Map amendment, the Zoning Code remains internally consistent.

NOW, THEREFORE, the City Council of the City of Milpitas does ordain as follows:

SECTION 1. RECORD AND BASIS FOR ACTION

The City Council has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the City Council. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

SECTION 2. AMENDMENT OF MILPITAS MUNICIPAL CODE, TITLE XI, CHAPTER 10 (ZONING MAP) AND TRANSIT AREA SPECIFIC PLAN ZONING DISTRICT MAP (FIG. 5-21)

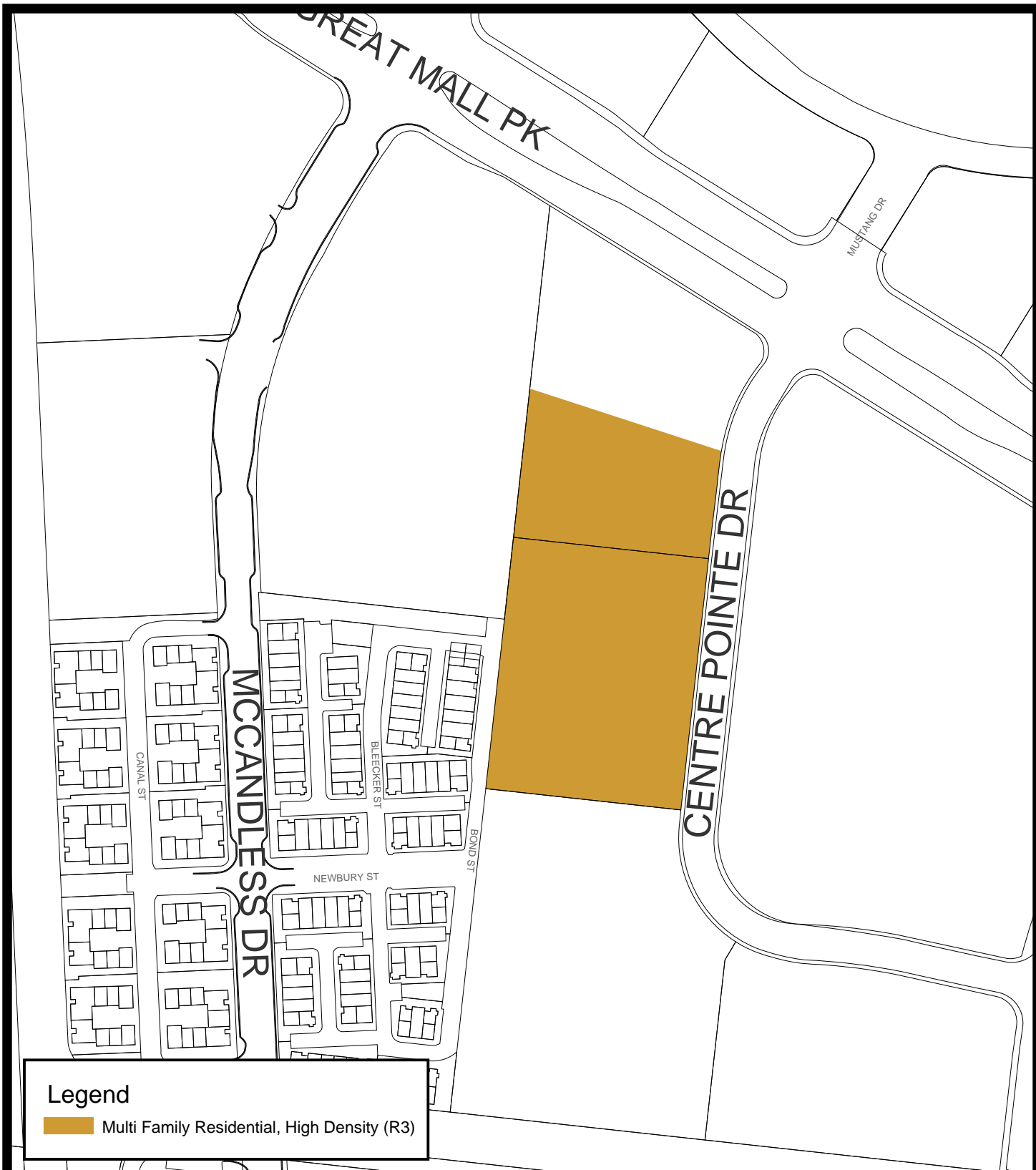
The Zoning Map of the City of Milpitas, as amended, which was adopted as part of ordinance No. 38, enacted as Chapter XI-10 (Zoning, Planning and Annexation) of the Milpitas Municipal Code, is hereby amended by rezoning the land use designation of an approximately three-acre area within the Centre Pointe B subarea (Assessor's Parcel Numbers 086-33-086 and 086-33-087) from MXD2-TOD (Mixed Use-High Density with Retail/Transit Oriented Development Overlay) to R3-TOD (Multiple Family – High Density/Transit Oriented Development Overlay), along with a corresponding amendment to the Transit Area Specific Plan Zoning District Map (Figure 5-21), both as depicted on the attached **Exhibit A**.

SECTION 3. SEVERABILITY

The provisions of this Ordinance are separable, and the invalidity of any phrase, clause, provision or part shall not affect the validity of the remainder.

SECTION 4. EFFECTIVE DATE AND POSTING

In accordance with Section 36937 of the Government Code of the State of California, this Ordinance shall take effect thirty (30) days from and after the date of its passage. The City Clerk of the City of Milpitas shall cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.



Legend

 Multi Family Residential, High Density (R3)



City of Milpitas
The District Project
New Zoning Designation
Sectional Map No 584
No ZA15-005

This map is a product of the
City of Milpitas GIS



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